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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,906	01/05/2004	Peter Wilhelmus Henricus Rietjens	2007-1005	2003

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EXAMINER

TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/750,906

Applicant(s)

RIETJENS, PETER WILHELMUS
HENRICUS

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27, 49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27, 49 and 50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16, 19-21, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoeler (U.S. Patent No. 5,862,652) in view of Schmachtel (U.S. Patent No. 4,194,438).

Schoeler discloses form-fill-seal machine for making bag- shaped packagings for products, such as edible products, from a web of material, the machine comprising a frame having a stock of web material (Fig. 9-11; via 15) and supply of the web material in flat condition (via 17), a form- unit removably connected to the frame at a front side of the machine (Figs. 9-11; via forming shoulder 18 mechanically connected to the machine, which make it capable of being removed), wherein the form-fill unit comprises a form shoulder (via 18) for transforming the flat web material into a tube (Figs. 9-11), as well as a form-fill tube connecting to the form shoulder (Figs. 9-11; via fill pipe 20), having a vertical main plane of section, transverse sealing jaws (Figs. 9-11; via rotating jaws 23 and 24) that are positioned below a lower end of the form-fill tube for forming transverse seals (Figs. 9-11) in the tube and which are moveable towards and away from each other in a vertical plane perpendicular to the front side of the machine and the vertical main plane of section (via by rotating the jaws 23 and 24 at certain point they move toward and away from each other in a vertical plane), the form shoulder being shaped for forming an overlap in the foil tube which extends to at least distance from or near the

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vertical plane of section (Figs. 8-12; via 40, 41), wherein the machine furthermore provided with first longitudinal sealing means (Fig. 12; via 22, 28, and 30 at one of the tube sides) that are positioned at a first side, at one lateral side of the form tube as considered from the front side of the machine (via 22, 28, and 30 are located at one side of the machine in respect to the form tube), preferably at a short distance from or near the vertical main plane of section for forming a first severable longitudinal seal at the location of the overlap (Fig. 12).

Schoeler does not disclose that the web is been used on the machine is made of foil material nor the form shoulder being asymmetrically shaped and having a sideward opening to form an overlap in a packing material; form fill tube extending through the form shoulder in a vertical passage of the form shoulder, a collar surface of the form shoulder slopes with an inclined surface into a narrowing lip, the narrowing lip extends to a short side of the passage.

However, Schmachtel discloses a similar machine comprising that the web is been used on the machine is made of foil material and the form shoulder being asymmetrically shaped and having a sideward opening to form an overlap in a packing material having a flap, see for example (Figs. 3 and 4; via cut out portion 18 and column 4, lines 63-67); form fill tube extending through the form shoulder (Figs. 1 and 2; via fill pipe 7 extended through former 11) in a vertical passage of the form shoulder, a collar surface of the form shoulder slopes with an inclined surface into a narrowing lip (Fig. 3; via collar 13), the narrowing lip extends to a short side of the passage.

Therefor it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Schoeler's shoulder shape by having the web is been used on the machine is made of foil material and the form shoulder being asymmetrically shaped

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and having a sideward opening to form an overlap in a packing material, form fill tube extending through the form shoulder in a vertical passage of the form shoulder, a collar surface of the form shoulder slopes with an inclined surface into a narrowing lip, the narrowing lip extends to a short side of the passage, as suggested by Schmachtel, in order to the longitudinal seam of the bags can be moved from the center plane into the vicinity of a bag edge (column 2, lines 9-11).

Regarding claim 2: Schmachtel discloses a second longitudinal sealing means (Fig. 12; via 22, 28, and 30 on the other side of the tube) lateral side of the form tube, positioned at a second side, at one as considered from the front side the machine, opposite the first side, for forming at least one longitudinal seal in the foil tube.

Regarding claim 3: Schmachtel discloses that wherein two longitudinal sealing means are provided that are positioned either side of, preferably equidistant from, the vertical plane of section, see for example (Figs. 9-12).

Regarding claim 4: Schmachtel discloses that wherein form-fill protruding form strips for forming longitudinal folds in the foil tube, wherein the second longitudinal sealing means are positioned provided with for sealing the longitudinal folds, see for example (Figs. 3-8).

Regarding claim 5: Schmachtel discloses that wherein second longitudinal sealing means comprise an anvil/form member, that extends between both longitudinal folds for positioning them for sealing (Fig. 8).

Regarding claim 6: Schoeler in view of Schmachtel do not disclose that the position of at least one of the first and second longitudinal sealing means is adjustable direction towards/away from the fill tube. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Schoeler's sealing means to be adjustable,

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since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Steven, 101 USPQ 284 (CCPA 1954).

Regarding claim 7: Schmachtel discloses the anvil/form member forms an interchangeable part (Fig. 8).

Regarding claim 8: Schmachtel discloses the form-fill unit is detachably placed in the machine. Note it is inherent that the form-fill unit is detachably placed in the machine.

Regarding claim 9: Schmachtel discloses that wherein the form/fill tube at the first side at the lower end is provided with a first protrusion, situated in or near the vertical plane of section and extending downwards, and which in horizontal direction is free from the remainder of the lower end Form-fill-seal machine of the fill tube, see for example (Figs. 8-12; via expanding elements 38 and 39).

Regarding claim 10: Schmachtel discloses that wherein the first protrusion is pen- or lip-shaped (Fig. 8; via 38 and 39).

Regarding claim 11: Schmachtel discloses that wherein the first protrusion with its end extends beyond the profile of the fill tube (Fig. 12).

Regarding claim 12: Schmachtel discloses that wherein the form/fill tube at its lower end is furthermore provided with at least a second protrusion, which at least situated at the second side and defines a recess with the first protrusion (Fig. 8; via 38 and 39 on the other side of the tube).

Regarding claim 13: Schmachtel discloses that wherein the second protrusion forms a sharp guiding edge, substantially oriented towards the bottom (Fig. 8).

Regarding claim 14: Schmachtel discloses that wherein two second protrusions are present, which extend on either side of the vertical plane of section and preferably keep an area free between them, in which area a fold-maker is able to extend, wherein two second protrusions preferably are connected to each other by a plate, for instance a V-shaped plate, which is forming a cavity for the inwardly folded bottom area to be made (Fig. 8).

Regarding claim 15: Schmachtel discloses that wherein the fill tube has a substantially rectangular cross-section, having the main sides substantially parallel to the vertical plane of section (Figs. 9, 12, and 14).

Regarding claim 16: Schmachtel discloses that wherein the first side of the form and fill tube is bent having a flat surface between bent transitions to the main sides (Figs. 9-12).

Regarding claim 21: Schmachtel discloses that wherein the first longitudinal sealing means are positioned at a short distance from or near the vertical plane of section (Figs. 9-12).

Regarding claims 49 and 50: Schmachtel discloses the machine could be designed as a continuously or discontinuously operative machine, see for example (Figs. 9-12).

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoeler (U.S. Patent No. 5,862,652) in view of Schmachtel (U.S. Patent No. 4,194,438) and further in view of Inagaki (EP. No. 0 276 554).

Schoeler in view of Schmachtel do not disclose means for arranging a strip of tape on the web material in the overlapped area. However, Inagaki discloses a similar form fill seal machine comprising means for arranging a strip on the web material in the overlapped area (Fig. 7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Schoeler in view of Schmachtel's machine with means for arranging a strip of tape on the web material in the overlapped area, as suggested by Inagaki, in order to come up with re-closable and re-usable bags.

Claims 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoeler (U.S. Patent No. 5,862,652) in view of Schmachtel (U.S. Patent No. 4,194,438) and further in view of Inagaki (EP. No. 0 276 554).

Schoeler discloses a form fill seal machine comprising a frame having a stock of web material and the web material flat condition (Fig. 10); form-fill unit (via forming shoulder 18 and filling pipe 20), the form-fill comprising an asymmetrical form shoulder (18) for transforming the flat web material into a tube, while forming an overlap (Fig. 12), and a form-fill tube connecting to the form shoulder, said form-fill tube has substantially rectangular cross-section (Figs. 12 and 14; via rectangular formed tube) and is positioned in the machine having a first main side facing away from the machine and a second main side facing the machine (Figs 12 and 14), wherein the form shoulder (18) is designed for forming overlap at least the first or second main side, wherein the form-fill unit at a first short side of the form-fill tube is provided with two protruding form strips for forming longitudinal folds furthermore provided with first longitudinal sealing means for forming first (Figs. 8-12; via 22, 28, and 30), severable longitudinal seal the area over top and second longitudinal sealing means (via 22, 28, 30 on the other side) for forming second longitudinal seals at the location of the longitudinal folds, wherein the form-fill unit, overlap, wherein the form-fill-seal machine is furthermore provided with transverse sealing

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means positioned below the fill-form unit for forming transverse seals in the tube and with means for severing the transverse seals at the location of the transverse seals (Figs. 9-12; via 23 and 24).

Schoeler does not disclose that the web is been used on the machine is made of foil material nor the form shoulder being asymmetrically shaped and having a sideward opening to form an overlap in a packing material.

However, Schmachtel discloses a similar machine comprising that the web is been used on the machine is made of foil material and the form shoulder being asymmetrically shaped and having a sideward opening to form an overlap in a packing material, see for example (Figs. 3 and 4; via cut out portion 18 and column 4, lines 63-67).

Therefor it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Schoeler's shoulder shape by having the web is been used on the machine is made of foil material and the form shoulder being asymmetrically shaped and having a sideward opening to form an overlap in a packing material, as suggested by Schmachtel, in order to the longitudinal seam of the bags can be moved from the center plane into the vicinity of a bag edge (column 2, lines 9-11).

Schoeler in view of Schmachtel do not disclose means for arranging a strip of tape on the web material in the overlapped area nor arranging a severable seal at the side of the strip.

However, Inagaki discloses a similar form fill seal machine comprising means for arranging a strip on the web material in the overlapped area (Fig. 7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Schoeler in view of Schmachtel's machine with means

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for arranging a strip of tape on the web material and arranging a severable seal at the side of the strip in the overlapped area, as suggested by Inagaki, in order to come up with re-closable and re-usable bags.

Regarding claim 24: Schoeler discloses that the second longitudinal sealing means are positioned at the second short side of the form fill tube, see for example (Figs. 9-12).

Regarding claim 25: Schoeler discloses that the first short side of the form fill tube is bent having a flat surface between bend transitions to the main side, see for example (Figs. 9-12).

Regarding claim 26: Schoeler discloses that form fill unit is detachably arranged on the frame. Note that it is inherent that the form-fill unit is detachably placed in the machine.

Regarding claim 27: Schoelere discloses that the first longitudinal sealing means and/or the second longitudinal sealing means are detachably arranged on the frame, see for example (Figs. 9-12), note that that it is inherent that the longitudinal sealing means are detachably placed in the machine.

Response to Arguments

Applicant's arguments with respect to claims 1-27, 49, and 50 have been considered but are moot in view of the new ground(s) of rejection.

Note that applicant argues that Schmachtel fails to disclose the claimed "flap". The examiner maintains that Schmachtel's reference discloses such flap former (column 4, lines 63-68 and column 5, line 1; via "The overlapping point extends during a further movement by means of the transfer belts 8, 9 below the longitudinal sealing jaw 25."; such descriptions means that an overlap portion extended further from the longitudinal seal, which is equivalent to the

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claimed "flap". Further, such flap/tong of the overlapped portion is old and well known as described in (column 2, lines 33-36).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

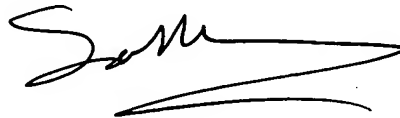
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sameh H. Tawfik
Primary Examiner
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ST.

A handwritten signature in black ink, appearing to read 'Sameh', with a long horizontal stroke extending to the right.